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November 20, 2020

The Honorable Cheryl L. Pollak  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: 1:19-cv-07256-WFK-CLP, Plaintiff's Fifth Letter Motion for Extension of Time  
Within Which to Effectuate Service on John Doe Defendant**

Dear Judge Pollak:

As you know, I represent Plaintiff in the above captioned matter. Plaintiff respectfully requests an order extending the time within which to serve Defendant with a summons and Complaint. This is Plaintiff's fifth request for an extension of time with which to effectuate service of process.

On December 27, 2019, Plaintiff filed the instant case against John Doe, subscriber assigned IP address 67.245.246.132 ("Defendant"), alleging Defendant infringed sixty-five of Plaintiff's works through the BitTorrent protocol. [Dkt. No. 1]. Because Defendant is only known to Plaintiff by Defendant's IP address, on January 15, 2020, Plaintiff filed a Motion for Leave to Serve a Third Party Subpoena Prior to a Rule 26(f) Conference ("Motion for Leave") in order to serve a third party subpoena on Defendant's ISP. [Dkt. No. 7].

Pursuant to Fed. R. Civ. P Rule 4(m), Plaintiff was required to effectuate service on the Defendant by no later than March 26, 2020. Because Plaintiff's Motion for Leave was pending before the Court at that time, on March 26, 2020, Plaintiff filed its First Letter Motion for Extension of Time Within Which to Effectuate Service on John Doe Defendant ("First Letter Motion"). [Dkt. No 8]. The Court granted Plaintiff's First Letter Motion on March 30, 2020, extending the deadline to effect service to May 25, 2020.

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On May 26, 2020, Plaintiff filed its Second Letter Motion for Extension of Time Within Which to Effectuate Service on John Doe Defendant (“Second Letter Motion”). [Dkt. No. 9]. The Court granted Plaintiff’s Second Letter Motion on June 11, 2020, extending the deadline to effect service to July 24, 2020.

On July 21, 2020, Plaintiff filed its Third Letter Motion for Extension of Time Within Which to Effectuate Service on John Doe Defendant (“Third Letter Motion”). [Dkt. No. 10]. The Court granted Plaintiff’s Third Letter Motion on July 22, 2020, extending the deadline to effect service to September 22, 2020.

On September 22, 2020, Plaintiff filed its Fourth Letter Motion for Extension of Time Within Which to Effectuate Service on John Doe Defendant (“Fourth Letter Motion”). [Dkt. No. 12]. The Court granted Plaintiff’s Fourth Letter Motion on September 23, 2020, extending the deadline to effect service to November 21, 2020.

On October 7, 2020, Plaintiff was granted leave to serve a third-party subpoena on Defendant’s ISP to obtain the Defendant’s identifying information. [Dkt. No. 13]. Plaintiff issued the subpoena on or about October 12, 2020 and, in accordance with the time allowances provided to both the Defendant and the ISP to respond to that subpoena, expects to receive the ISP’s response on or about February 23, 2021.

For the foregoing reasons, Plaintiff respectfully requests that the time within which it must effectuate service of a summons and Complaint on the John Doe Defendant be extended sixty (60) days from February 23, 2021 (the date Plaintiff expects to receive the ISP response), and, thus, that the deadline to effect service be extended to April 24, 2020. This extension should allow Plaintiff sufficient time to receive the ISP response, conduct a further investigation to assist in determining whether the individual identified by the ISP is the appropriate defendant for this action, and, if a good faith basis continues to exist, to proceed against that individual (or someone else), to amend the Complaint and place the summons and Amended Complaint with the process server to attempt service of process.

Respectfully Submitted,

*/s/ John C. Atkin*

John C. Atkin, Esq.